IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.R. No. 1800 of 2007 (O&M)

DATE OF DECISION : 17.04.2007

Oriental Insurance Company Limited

.... PETITIONER

Versus

Sudesh Bansi

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. C.S. Pasricha, Advocate,
for the petitioner.

The Oriental Insurance Company Limited, which is a tenant in the demised premises, has filed this revision petition under Section 18 A (8) of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as `the Act') against the order dated 20.2.2007, passed by the Rent Controller, Jalandhar, whereby application of the petitioner company for leave to contest the ejectment application filed by the respondent under Section 13-B of the Act being Non Resident Indian landlady has been dismissed.

2. The respondent filed an application under Section 13-B of the Act for ejectment of the petitioner company from the demised premises by alleging on affidavit that the petitioner is in occupation of the demised premises as tenant under the respondent at the rate Rs. 3,622/- per month since 1.2.1999. It was alleged that the respondent is a Non Resident Indian and has returned to India to permanently settle here. She is the owner of the demised premises for the last more than five years. She requires the front portion of the property under the occupation of the petitioner for her own use and occupation for the purpose of running the business of readymade garments. She has neither possessed any other non-residential building

situated within the municipal limits of Jalandhar nor got vacated the same under Section 13-B of the Act.

3. After service of the notice, the petitioner filed an application for grant of leave to contest the ejectment application filed by the respondent on the ground that the respondent is not owner of the demised premises, which according to the petitioner is owned by HUF of Amrik Singh and others. The respondent is not a Non Resident Indian. Her requirement of the demised premises is not bonafide.

4. The Rent Controller, after considering the averments made by the parties and the material available on the record, has dismissed the said application filed by the petitioner. Hence, this revision petition.

5. I have heard counsel for the petitioner and gone through the impugned order.

6. Section 13-B of the Act has been enacted by the legislation for expeditious disposal of the application of ejectment of the tenant filed by the Non Resident Indian landlord. For ejectment under this section, summary procedure has been prescribed under Section 18-A of the Act. Section 13-B gives right of ejectment to a Non Resident Indian, who is owner of the premises for the last five years, to get one building vacated in a summary manner. A Non Resident Indian landlord is required to prove that he is a Non Resident Indian; that he has to return to India permanently or for temporary period and that the requirement of accommodation by him is genuine and for that he is owner of the property for the last five years before the institution of proceedings of ejectment before the Rent Controller. Sub section (4) of Section 18 of the Act provides that a tenant shall have no right to contest the prayer of eviction from the residential/ scheduled building, unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtain leave from the Controller to defend the ejectment application. It is well settled that the averments made by the Non Resident Indian landlord with regard to his requirement of the demised premises shall be presumed to be genuine and bonafide unless rebutted by

the tenant by placing cogent and material facts or evidence in support thereof at the time of `leave to contest' before the Controller. A strong presumption regarding need of the genuineness of the landlord has been inbuilt in this provision, as various restrictions and conditions have been imposed on the landlord. The strong presumption can be rebutted by the tenant by giving strong and cogent evidence to show that the requirement of the Non Resident Indian landlord is not genuine. To prove that, the tenant has to give all the necessary facts and particulars supported by documentary evidence, if available, to support his plea in the affidavit itself. A mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in favour of the landlord.

7. In the instant case, except the assertions made by the petitioner that the requirement of the landlord is not genuine, because the other family members of the landlady are still residing abroad, and that the sufficient accommodation is already available with the respondent-landlady, there is no other material to rebut the strong presumption in favour of the landlady about her genuine requirement. On such kind of assertions, it cannot be taken that requirement of the respondent is not genuine. The respondent requires this premises, which is front portion, for starting her business of readymade garments. Regarding the assertion that the respondent is not owner of the demised premises, the contention raised by the petitioner before the Rent Controller, in my opinion, has been rightly rejected. It has not been disputed that the last lease deed was signed between the petitioner and the respondent on 5.10.1999 and the rent is also being paid to the respondent. Earlier, this property was owned by Amrik Singh, husband of the respondent. After his death, it was inherited by the respondent and her sons. The respondent has also placed on record municipal record and the jamabandis, proving her ownership. Once the petitioner itself has executed the lease deed and accepted the respondent as one of its owner, then it cannot question the title of its landlady. Thus, in my view, no irregularity or illegality has been committed by the Rent Controller, while rejecting the

application for leave to contest the ejectment application, as there was no contentious issue in the said application.

8. Dismissed.

April 17, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**